



Public Notice

**U.S. Army Corps
of Engineers**
Pittsburgh District

In Reply Refer to
Notice No. below

US Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Application No. 200300907

Date: August 2, 2005

Notice No. 05-50

Closing Date: August 17, 2005

1. TO ALL WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).
2. APPLICANT: Buffalo Coal Company, Inc.
32 Enterprise Drive
Oakland, MD 21550
3. LOCATION: in upland and wetlands adjacent to a tributary to Stony River and Helmick Run in Union District, Grant County, West Virginia.
4. PURPOSE AND DESCRIPTION OF WORK: This Public Notice serves to amend Public Notice 03-44 dated August 20, 2003, whereby Buffalo Coal Company proposed to excavate and remove approximately 66 acres of wetlands within the Northern Potomac River watershed as part of a mining operation in Grant County, West Virginia. As a result of revisions to Buffalo Coal Company's mining plan, approximately 33 acres of impact to jurisdictional wetlands are currently being proposed. The wetlands that have been avoided as a result of the revised mining plan are primarily located within the floodplain of Stony River. This area will not be impacted as a result of the mining operations and will therefore remain intact as a stable riparian buffer zone along Stony River. The wetlands proposed to be impacted are located within the Stony River and Helmick Run drainage areas. Both of these streams flow into Mount Storm Lake. Stony River continues to flow north and meets the North Branch of the Potomac River. Approximately 6.93 acres of wetlands will be permanently impacted in the Stony River drainage area. Of which, approximately 0.81 acre are classified as emergent, approximately 1.77 acres are classified as scrub-shrub and approximately 4.35 are classified as forested. Approximately 26.07 acres of wetlands will be permanently impacted in the Helmick Run drainage area. Of which, approximately 9.18 acres are classified as emergent, approximately 3.28 acres are

classified as scrub-shrub and approximately 13.61 acres are classified as forested. Therefore, a total of approximately 33 acres of jurisdictional wetlands will be permanently impacted as a result of the proposed project. No streams will be impacted as a result of the project. Buffalo Coal proposes to mitigate for the unavoidable loss of approximately 33 acres by the following:

(1) Western Pocahontas Properties Limited Partnership (WPPLP) will transfer a piece of property containing Dobbins Slashings Bog, fee simple, to West Virginia Division of Natural Resource (WVDNR). This property is located in the headwaters of Red Creek on the eastern side of Cabin Mountain located within the Canaan Valley. WPPLP currently owns the tract of land, approximately 964.95 acres, of which 240.16 acres have been identified as wetland. The remaining 724.79 acres consist of upland buffer. Additionally, WPPLP is seeking 20 wetland mitigation credits. A discussion occurred during a June 1, 2005 site meeting at the Red Creek property with the WVDNR, U.S. Fish & Wildlife Service (USFWS) whereby the tracking of WPPLP's wetland credits would occur in the permit correspondence (Sections 401 and 404 of the Federal Clean Water Act) for each project utilizing the wetland credit. WPPLP will be the only party able to use the remaining wetland credits and shall not be used by other interested parties. The wetland credit balance would be tracked by WPPLP and WVDEP.

(2) Buffalo Coal will create a total of approximately 13.04 acres of wetlands. This total includes the creation of approximately 12 acres, in two locations (10 acres and 2 acres), at the proposed mine site. Additionally, approximately 1.04 acres of wetland will be created alongside an existing access road which is the route to access the property exhibiting the Dobbins Slashings Bog.

(3) Buffalo Coal will upgrade the above mentioned access road (4.8 miles) to Dobbins Slashings Bog to utilize this access road for the transport of limestone sands to the headwaters area of Red Creek which currently exhibits a low pH as a result of the large bog in the headwaters area. The application of limestone sands will continue for a period of ten years and will improve approximately 10 miles of stream for a viable trout fishery. Drawings of the proposed project are attached to this notice.

5. WEST VIRGINIA WATER QUALITY CERTIFICATION: This permit decision will not be made until the State of West Virginia, Division of Environmental Protection (WVDEP), issues, denies, or waives State Water Quality Certification. This public notice does not serve as application to the WVDEP for certification required by Section 401 of the Clean Water Act. The applicant must apply directly to the WVDEP for individual water quality certification. The WVDEP will also consider whether or not the proposed activity will comply with sections 301, 302, 303, 306, 307 of the Clean Water Act or any other appropriate State laws.

Any person wishing to comment, provide information, and/or request a public hearing concerning certification for this project should write to the:

West Virginia Department of Environmental Protection
Division of Mining and Reclamation
401 Certification Program
601 57th Street SE
Charleston, West Virginia 25304
Telephone: 304-926-0499

Re: Public Notice CELRP-OP-F No. 05-50

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. This Public Notice serves as a request to the U. S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

7. IMPACT ON CULTURAL RESOURCES: The National Register of Historic Places has been consulted, and it has been determined that there are no properties currently listed on the register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).


8. PUBLIC INVOLVEMENT: Any person may request, in writing, within the comment period specified in the paragraph below entitled "RESPONSES," that a public hearing be held to consider this application. The requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

9. EVALUATION: Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposals must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the

proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the overall public interest of the proposed activity. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

10. RESPONSES: A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered in the final determination. Any objections which are received during this period may be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. All responses to this notice should be directed to the Regulatory Branch, attn Allen Edris, at the above address, by telephoning (412) 395-7158, or by e-mail at allen.r.edris@lrp02.usace.army.mil. Please refer to CELRP-OP-F 200300907 in all responses.


FOR THE DISTRICT ENGINEER:

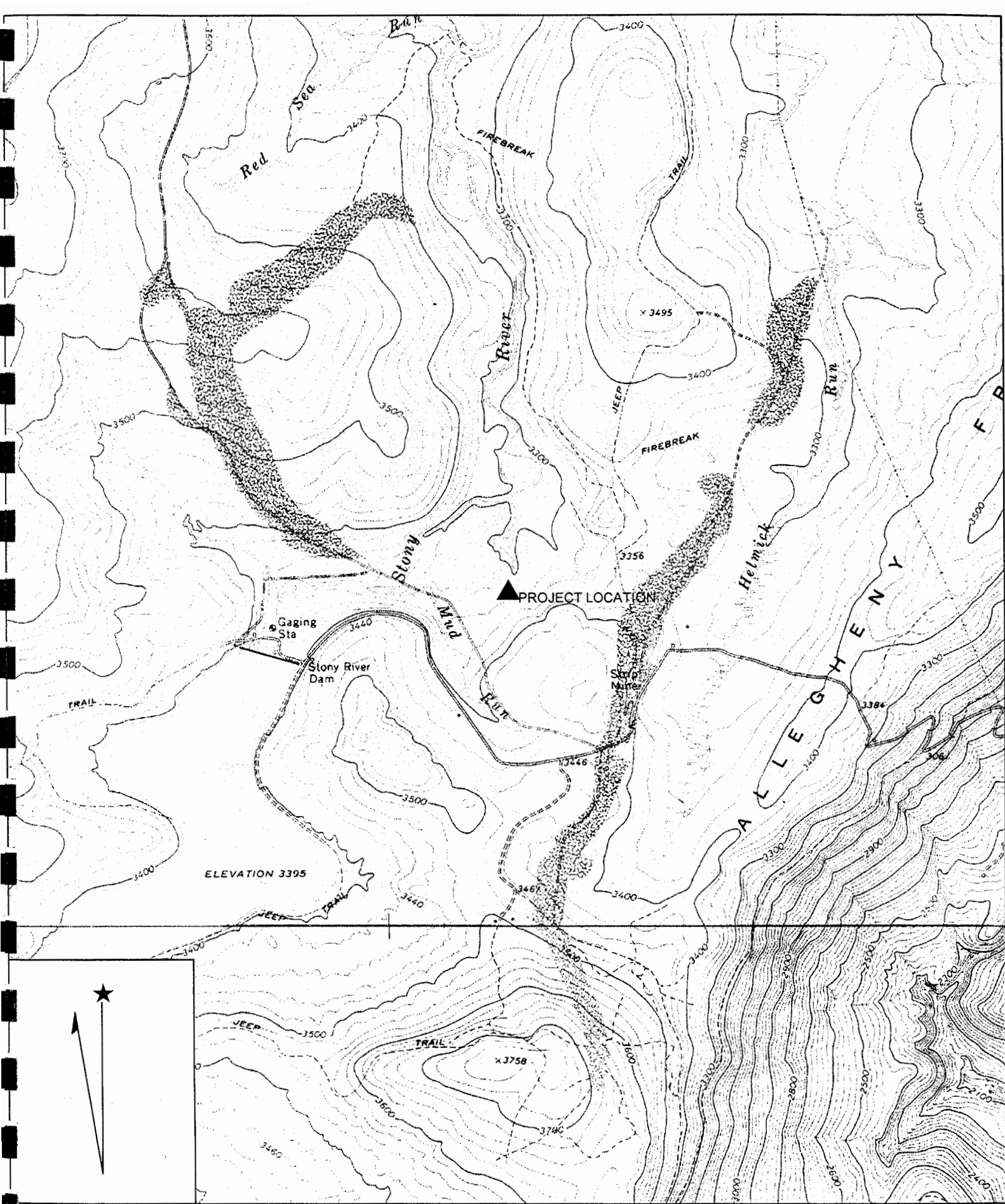

for: Michael J. Cummings, Jr.
Chief, Regulatory Branch

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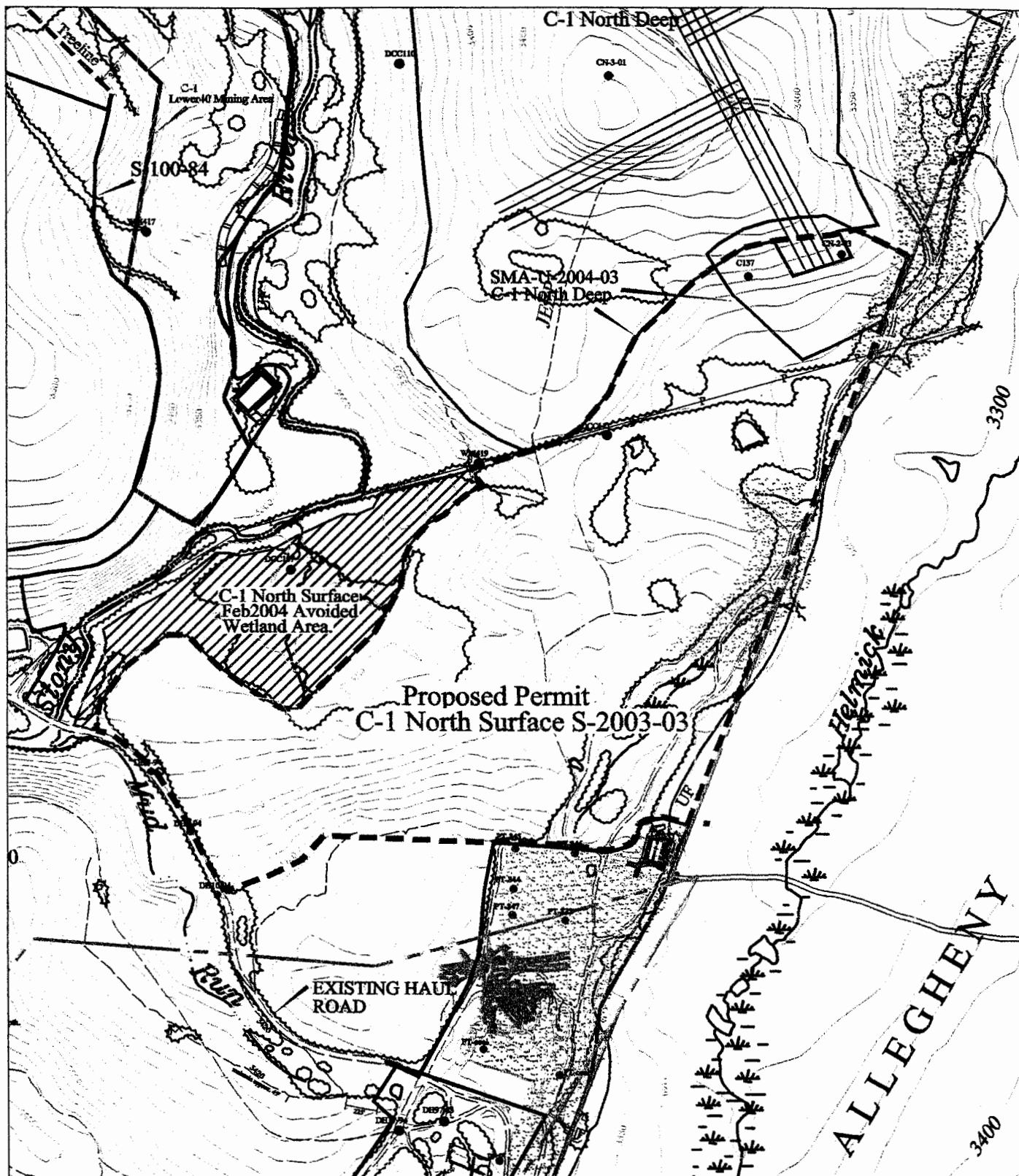
FOR THE DISTRICT ENGINEER:


for Michael J. Cummings, Jr.
Chief, Regulatory Branch



Name: MT STORM LAKE
Date: 5/27/2005
Scale: 1 inch equals 2000 feet

Location: 039° 08' 21.2" N 079° 17' 05.2" W
Caption: Site Location Map
Buffalo Coal Company, Inc.
Grant County, WV



POTESTA

Potesta & Associates, Inc.
ENGINEERS AND ENVIRONMENTAL CONSULTANTS

2300 MacCorkle Ave. SE, Charleston, WV 25304

TEL: (304) 342-1400 FAX: (304) 343-9031

E-Mail Address: potesta@potesta.com

Project

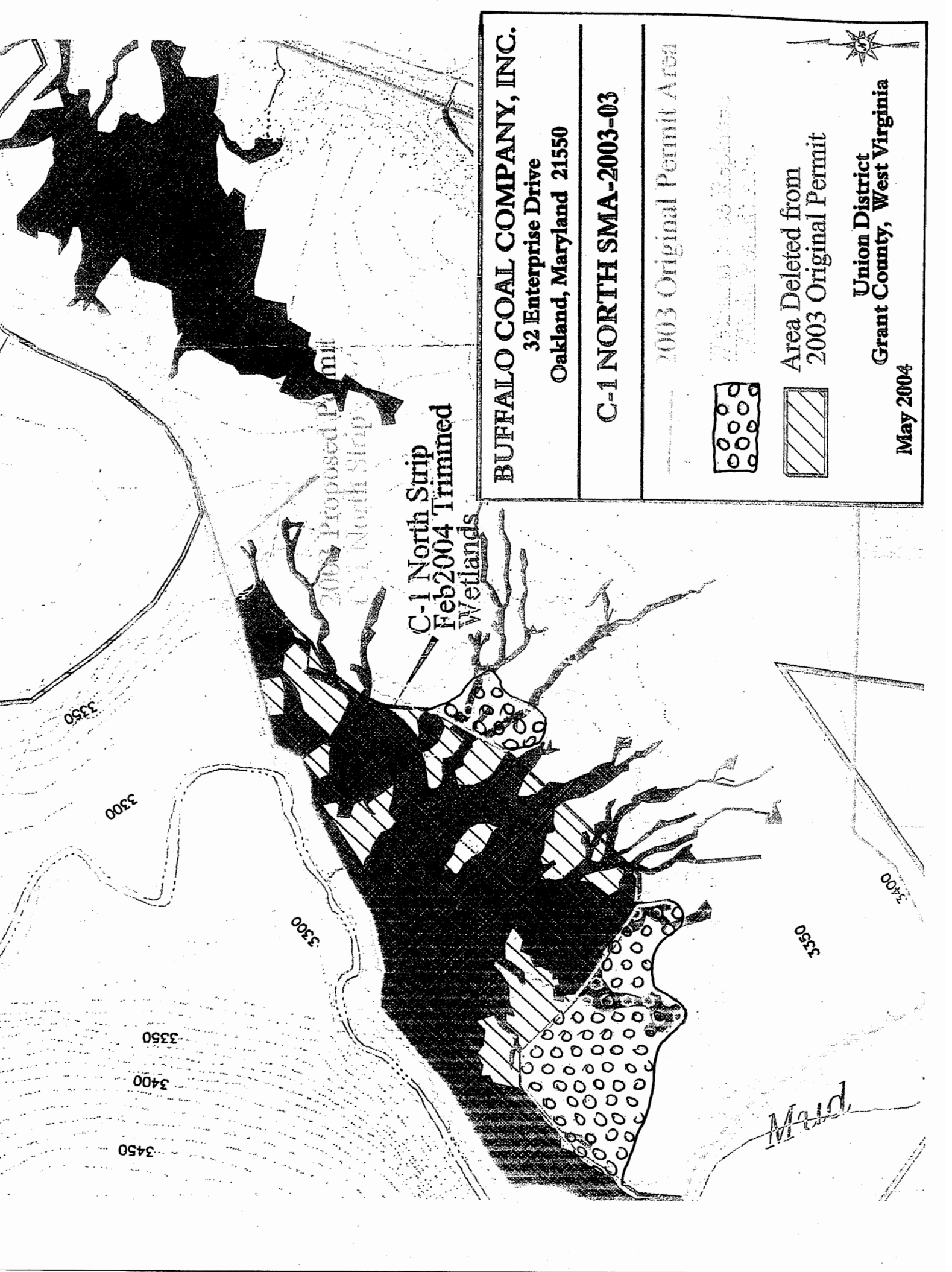
BUFFALO COAL COMPANY, INC.
C-1 NORTH SURFACE MINE
GRANT COUNTY, WV

Scale **1" = 100'**

Date **MAY 2005**

Dwg. No.

FIGURE 2



BUFFALO COAL COMPANY, INC.

32 Enterprise Drive

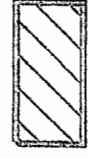
Oakland, Maryland 21550

C-1 NORTH SMA-2003-03

2003 Original Permit Area



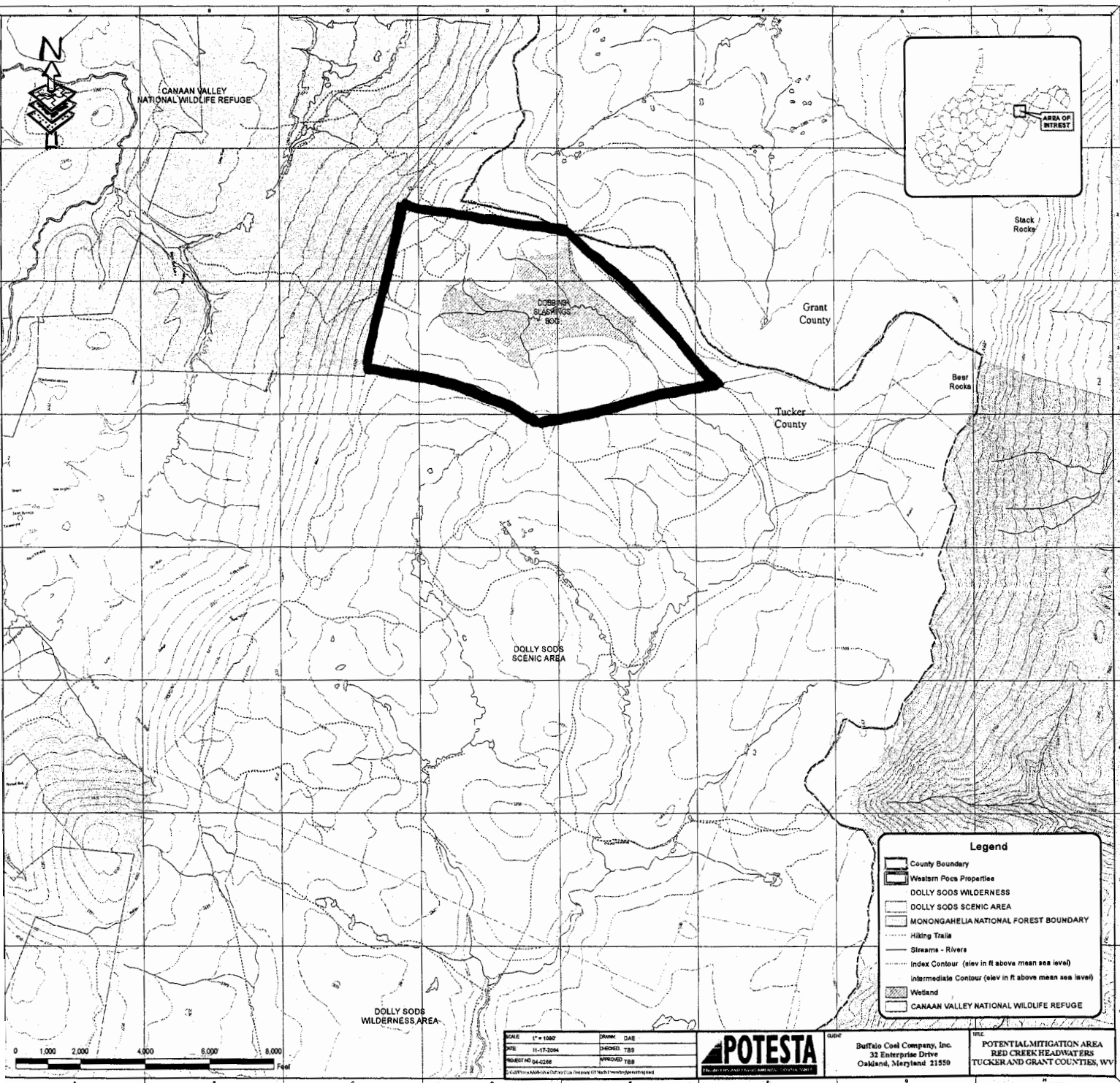
Area Deleted from
2003 Original Permit



Union District
Grant County, West Virginia

May 2004

Dobbiws Slashiwss Bog Mitigation Area



REFUGE



Lake View

Canaan Valley
National Wildlife
Refuge

Spruce Glades

3500

4100

3200

3200

3300

3000

4000

Dolly Sods
Scenic Area

DOBBS-
SLASHINGS
BOG
Approx. 200 acres

4000

4000